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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,865	12/22/1999	MARCO WINTER	RCA-89.912	5460

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THOMSON LICENSING INC.
PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543-5312

EXAMINER

FLETCHER, JAMES A

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/469,865
Filing Date: December 22, 1999
Appellant(s): WINTER, MARCO

Patricia A. Veriangieri
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7 March 2005 appealing from the Office action mailed 7 April 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

This appeal involves claims 1-12.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

5,845,331

Carter, et al

12-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-2 and 4-10 are rejected under 35 U.S.C. 102(e). This rejection is set forth in a prior Office Action, mailed on 7 April 2004.

Claims 3 and 11-12 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 7 April 2004.

(10) Response to Argument

In re page 5, Appellant's Representative states: "Kawamura et al. does not describe or suggest a replay appliance in which a scanning device first scans a recording media, then a search means performs a binary search of the scanned recording medium based on a replay time, a comparator compares the replay time to a desired replay time and the scanning device scans information on the recording media at a point that corresponds to the result of the comparator to access information stored on the recording media at the desired playing time. Rather Kawamura et al. only teaches searching time code information recorded in each sector of a recording medium based on a time code specified by a user and moving a pickup to the sector of the recording medium where the time code specified by the user is located."

The Examiner respectfully notes that the claimed invention does not recite any sequence of events involved in a method of searching a recorded media. Rather, it describes several "means plus function" elements of a device that searches a medium

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based on a replay time data signal recorded on the medium, as does the invention of Kawamura et al.

The Examiner further respectfully disagrees with the Appellant's Representative's assertion that Kawamura et al does not comprise a scanning device. Kawamura clearly and distinctly discloses a scanning device, as indicated by the fact that a medium is read by the data reading apparatus of Fig. 2 and as indicated by the disclosure of Col 14, lines 61-66 "the control unit 33 commands the drive unit 22 to move the pickup toward the direction in which data corresponding to the specified time code exists." Even interpreted narrowly, the disclosed "pickup" clearly scans the data recorded on the disc.

Kawamura also discloses a search means which performs a binary search, as indicated in the disclosure at Col 14, lines 55-56 "It is assumed that a search is made based on a time code specified by the user" and also in the passage cited by Examiner Chieu in Col 5, lines 58-67, where the digital (binary) time code format is disclosed.

Kawamura further discloses a comparison of the replay time (the time code at the accessed location on the medium) to the desired replay time, again, as disclosed in both Col 14, lines 59-60 ("the stored time code is compared with a time code specified by the user"), as well as the passage cited by Examiner Chieu ("If the time code of the sector to which the pickup has been moved is not coincident to or sufficiently close to the time code specified by the user, the control unit 33 again commands the drive unit 22 to move the pickup to repeat the above-mentioned operations"), as well as other

clear indications of comparison of the accessed time code to the desired time code throughout the cited reference.

In re page 7, in addition to those elements analyzed and discussed above, Appellant's Representative states: "Kawamura et al. does not describe or suggest a replay appliance in which...a comparator compares the replay time to a desired replay time...where the comparator is a mask for comparing information read from the recording medium with a binary word."

Further in re page 7, Appellant's Representative states: "Carter et al. does not describe or suggest a replay appliance in which a scanning device first scans a recording media, then a search means performs a binary search of the scanned recording medium based on a replay time, a comparator compares the replay time to a desired replay time and the scanning device scans information on the recording media at a point that corresponds to the result of the comparator to access information stored on the recording media at the desired playing time where the comparator is a mask for comparing information read from the recording medium with a binary word. Rather, Carter et al. teaches a completely different arrangement in which access to a shared memory of a memory system is restricted by guarded pointers."

The Examiner can only reply that Examiner Chieu never made assertions of such disclosures. Rather, Examiner Chieu stated that comparison masks were well known by those of ordinary skill in the art at the time of the invention, and that the use of a comparison mask to perform the comparison disclosed by Kawamura would have been obvious to one of ordinary skill in the art at the time of the invention.

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Further, in the Appellant's own disclosure, the mask is disclosed as a search means "which corresponds to the binary word of the navigation sector designator." This is understood by the Examiner as being a partial copy of the original search criterion, allowing for a finite target size and defining a tolerance or error window for the search function to locate. Although Kawamura et al do not use the term "mask," they clearly disclose the use of a tolerance window in Col 15, lines 9-13 ("when the time code of a sector to which the pickup has been moved is coincident to **or sufficiently close** to the time code specified by the user, the search operation is stopped").

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

JAF for JP

JAF

May 4, 2006

Conferees

James Groody

Thai Tran

[Signature]
THAI TRAN
PRIMARY EXAMINER

[Signature]
James J. Groody
Supervisory Patent Examiner
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2621

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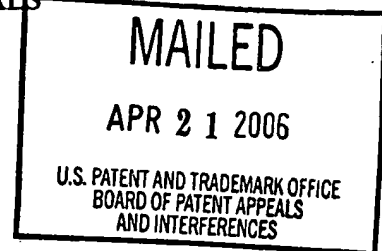
The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARCO WINTER

Application No. 09/469,865



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 22, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

May 19, 2005, an Examiner's Answer was mailed. A review of the Examiner's Answer pertaining to the required appeals conference is not in compliance with the Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., rev. 1, Feb. 2003).

According to MPEP § 1208:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner

(SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the type or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

The Examiner's Answer was not signed or initialed by both of the appeals conference participants. Appropriate correction is required as required under MPEP § 1208.

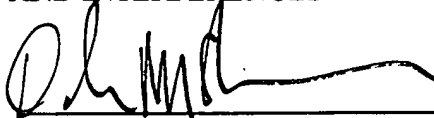
It should also be noted that the required Appeal Brief fee was not charged to the deposit account.

Accordingly, it is

ORDERED that the application is returned to the examiner for:

- 1) vacate the Examiner's Answer mailed May 19, 2005;
- 2) to obtain the conferee's initial or signature on the Examiner's Answer;
- 3) have required Appeal Brief fee charged to the deposit account; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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Application No. 09/469,865 .

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